IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 132 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAYANT PAPER MILLS LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 132 of 1986
MR JP SHAH for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 10/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the assessee, the following two questions have been referred to this Court for its opinion under the provisions of Sections 256 (1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), by the Income Tax Appellate Tribunal, Ahmedabad Bench `A'.

(i) "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that sum of Rs.31,066/- being the amount paid to I.C.I.C.I at the time of repayment of instalment on account of difference in foreign Exchange rates, is not allowable as deduction in determining the total income?"

(ii) "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is not entitled to extra shift depreciation allowance of Rs.67,974/in respect of electrical installations?"

2. Learned advocate Shri Manish Shah has appeared for the applicant-assessee and learned advocate Shri Bharat Naik has appeared for the revenue.

3. Upon perusal of the questions referred to above, we are of the view that the said questions have been duly answered by this Court during the pendency of the reference.

4. So far as the first question is concerned, it has been answered in the affirmative by this Court in the case of Ambica Mills Ltd. v. Commissioner of Income Tax, 235 I.T.R. 264. Looking to the law laid down in the said judgment, we also answer the said question in the affirmative i.e., in favour of the revenue and against the assessee.

5. So far as the second question is concerned, it has also been answered by this Court in the case of Commissioner of Income Tax v. Kiran Crimpers, 225 I.T.R. 84. Looking to the law laid down by this Court in the said case, we answer the second question in the affirmative i.e., in favour of the revenue and against the assessee.

Thus the reference stands disposed of accordingly with no order as to costs.

10.7.2001. (A.R. Dave, J.)

(D.A. Mehta, J.)

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